

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

KAREN MARIE RISPOLI,

Plaintiff,

vs.

KING COUNTY, DEPARTMENT OF
TRANSPORTATION, METRO DIVISION,
and DEPARTMENT OF YOUTH
SERVICES,

Defendants.

Case No. 04-1500RSL

ORDER DENYING PLAINTIFF'S
MOTION TO COMPEL
DISCOVERY RESPONSES AND
AWARDING FEES TO
DEFENDANTS

I. Introduction

This matter comes before the Court on "Plaintiff's Motion to Compel Discovery Responses and for Reasonable Costs and Attorney's Fees" (Dkt. # 66). For the reasons set forth herein, the Court denies plaintiff's motion.

II. Background

Pursuant to Fed. R. Civ. P. 37, plaintiff Karen Rispoli requests that the Court order defendants to produce the handwritten notes of Dr. Brooke Thorner, a physician hired by defendants in 2003 to conduct an independent medical examination of the plaintiff. She also requests the production of the results of a 1994 psychological evaluation that took place as part

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1 of her application for employment with defendant King County Department of Youth Services
2 (“DYS”).

3 Defendants object to plaintiff’s motion on the grounds that it was untimely filed. In the
4 alternative, defendants urge the Court to deny the motion because the documents plaintiff seeks
5 do not exist. Response at 2. Defendants also contend that they are entitled to costs and
6 attorney’s fees “for having to respond to this frivolous motion.” Response at 9. The Court will
7 address defendants’ objections in turn.

8 **III. Discussion**

9 **A. Timeliness of Motion**

10 On May 18, 2005 the Court entered an order requiring the parties to note all discovery
11 motions by July 15, 2005 (Dkt. # 44). Plaintiff’s instant motion, however, was filed on July
12 19th. It follows that the motion is time barred unless plaintiff can demonstrate compliance with
13 Fed. R. Civ. P. 6(b). In relevant part, Rule 6(b) provides:

14 When by . . . order of court an act is required or allowed to be done at or within a
15 specified time, the court for cause shown may at any time in its discretion . . . [,]
16 upon motion made after the expiration of the specified period[,] permit the act to
be done where the failure to act was the result of excusable neglect.

17 The rule clearly requires that in order to act after a time period specified by the court has
18 expired, a party must file a motion requesting the court to extend the time. Plaintiff did not file
19 such a motion, and, in any event, her attempts to demonstrate excusable neglect are
20 unconvincing. See Reply at 4. The motion to compel discovery is therefore denied as untimely.

21 **B. Costs and Attorney’s Fees**

22 Defendants contend that they are entitled to costs and fees because plaintiff’s motion is a
23 “colossal waste of time.” Response at 10. In support of this contention, defendants argue that
24 plaintiff filed the motion knowing that it was both untimely and futile and have provided
25 affidavits showing that they had informed plaintiff on five separate occasions that the requested
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1 DATED this 29th day of August, 2005.

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4 Robert S. Lasnik
5 United States District Judge
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REASONABLE COSTS AND ATTORNEY'S FEES - 4